BEFORE THE

JOINT COMMITTEE ON ENERGY AND TECHNOLOGY

February 26, 2019

TESTIMONY OF DANIEL ALLEGRETTI

on behalf of

THE RETAIL ENERGY SUPPLY ASSOCIATION

on

RAISED BILL 7155 (LCO 4600)

Chairman Needleman, chairman Arconti, members of the Committee, my name is Daniel Allegretti. I am a consultant with Sigma Consultants and am here today on behalf the Retail Energy Supply Association (RESA). RESA is the national trade association which represent competitive electricity suppliers across the United States, including here in Connecticut. RESA is opposed to the bill before you (LCO 4600).

Specifically, Section 2 of the bill imposes a number of requirements which are designed to regulate the electricity sales process and are clearly intended to prevent or at least document any instances of fraud or abuse. At the outset RESA would like to be clear that it is not the costs and burdens upon suppliers this bill would impose that is our paramount concern. Rather our real concern is with the impositions the proposed section would place upon consumers and upon other businesses suppliers must transact with.

Sections 2(p)(1) and (2) require the making and retention of recordings of all tele-sales calls as well as of all face to face communications with both potential and actual customers. RESA believes it is a gross invasion of a consumer's privacy to record any conversation without their knowledge and their consent. Meaningful consent, however, can only be obtained after the customer has been educated about the nature of the transaction being offered and has agreed to allow recording as a condition of moving forward and transacting with a supplier. Current regulations recognize this by requiring a third-party verification call prior to the finalization of any customer commitment. These calls, which are not conducted by salespeople, are all recorded and retained and are the appropriate way to verify that customer consent to switch to a supplier is voluntary and informed. As written, however, the bill would require the making of recordings even before the customer or potential customer can be told that a recording is being made, who is making the recording and why such recordings are required by the State. RESA believes that as an industry we owe customers and potential customers respect for their own privacy, that we should not be recording conversations unless and until customers grant us their informed consent and that such consent is simply not practicable until the conversation reaches the third-party verification stage.

Section (p)(3) of the bill imposes a requirement that suppliers conduct criminal background checks on all door to door marketers conducting marketing on their behalf. While suppliers can and routinely do conduct such checks on all employees who market on their behalf many suppliers also contract with marketing and sales firms to conduct marketing. Suppliers can conduct a check on their own employees and ca require as a condition of contract that outside firms not allow individuals who fail a background check to market on the supplier's behalf. Conducting a background check on employees of a third-party firm, however, risks inserting the supplier in the middle of the employment relationship between the worker and their direct employer. RESA believes this is inappropriate. Suppliers should be responsible for their own employees and should be allowed to rely upon the contractual representations of any third-party marketing company. RESA does not oppose the imposition of a background check requirement

on their own marketing employees or the imposition of a similar requirement directly upon marketing firms.

Section (p)(4) imposes various disclosures which must be made as part of the sales process. Many of these disclosures are quite reasonable and RESA has no objection to them in substance. That said, RESA does have several serious concerns with this section of the bill.

First, the section requires that each and all of the mandated disclosures, in their entirety, be the first words out of the supplier's mouth in every case. Customers will simply have no patience whatsoever for this. Placing information like this up front in a document is not difficult. A conversation, however, is just that, a conversation and it should be allowed to flow in a way that works for the customer. Customers will vary in their amount of knowledge about retail electricity, their patience for the sales process, and importantly their need to interrupt and ask questions and have those questions answered. The customer experience should be one in which the conversation is tailored to meet the customer's needs. Requiring every customer to sit through all of the disclosures before getting to the information they want hear in particular is an unfair burden on the customer. A more appropriate approach would be to require the disclosure of the information but to allow for such disclosures to be made at any time during the conversation up until the end. Alternatively, the disclosure requirements could also be met through the provision of a document provided to the customer during or after the sales call or perhaps as part of the third-party verification process.

Second, RESA has strong concerns with the requirement to disclose the utility standard service rate. RESA believes that any time suppliers make rate comparisons and present them to potential customers they are under a legal and ethical obligation to be truthful. That said, RESA does not see it as necessary or appropriate to offer comparisons to any specific competitor, whether that competitor is another supplier or a utility. Moreover, the mere provision of the prevailing standard service rate without context as to when and how that rate may change over time is also potentially confusing, misleading and not in the best interest of educating the consumer. A more appropriate disclosure would be to direct consumers as to how they can obtain more information in general about rates, suppliers and the retail marketplace from the Public Utility Regulatory Authority.

Third, RESA has objections to the requirement that suppliers must tell customers that "electric distribution companies do not encourage Connecticut residents to obtain an electric supplier." This is inappropriate. Whether electric distribution companies do or do not encourage Connecticut residents to obtain an electric supplier is a matter for the distribution companies alone to decide from time to time and for them alone to communicate to electric customers. The statement may or may not actually be true… Moreover, requiring one corporation to speak on behalf of another is a very dangerous precedent which infringes upon the rights of each company to speak for itself. This requirement should be removed.

Fourth, Section (p)(7) requires suppliers to process and submit customer enrollments to the electric distribution company within five business days. RESA supports the timely processing of enrollments and has no objection to the requirement, however, RESA respectfully reminds the committee that it is also necessary to maintain appropriate deadlines for the distribution companies to process enrollments once they are received.

In addition to concerns with Section 2, RESA also notes that Section 4(j) would broadly restrict the assignment or transfer of any retail supply contract without PURA approval. Once again, RESA is concerned with the convenience of the customer. For example, the simple transfer from one tenant or homeowner to another of an electric supply contract for a business or dwelling should be permissible without regulatory review. Consent to an assignment within a contract is a common business practice and should not be restricted in the case of electricity sales. RESA suggests that the language of section 4(j) restricting transfer or assignment should be removed.

In closing let me say that RESA takes seriously the need to adopt and enforce appropriate rules to protect consumers. For example, RESA takes no exception to the addition in section 3 of the bill of enforcement tools to the PURA's existing authority, including the ability to order customer restitution. RESA, however, believes strongly as well that the sales process needs to be one which is pleasant, convenient and satisfying for the consumer. On balance the provisions of this bill fall short in striking the proper balance between protection and consumer satisfaction and convenience. RESA would like for the Committee to know that it has been engaged at the Public Utility Regulatory Authority in a rulemaking process to address these very issues. Although no final rule has been issued yet by PURA, RESA suggests that consumer protection measures such as these can and should be addressed through rulemaking where a more detailed hearing process can produce a complete record on which to base changes. Alternatively, should the Committee wish to move forward by statute RESA would be pleased to offer language and to consult with the committee to craft an amendment which strikes a better balance for our customers.

Finally I should note that the comments expressed in this testimony represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.